

REMARKS

The Applicant and Applicant's attorney wish to thank the Examiner for the time spent reviewing the application and preparing the first Office Action and for the courtesies extended during the interview on November 29, 2006. During the interview, claims and references of record were discussed, as well as various claim amendments were discussed which may overcome the rejection of record.

In the first Office Action, claims 1-40 were rejected. By this paper, claims 1, 11, 21, 23-37 and 39-40 have been amended and claims 3, 22 and 38 have been canceled. Applicant submits that claim amendments do not add new matter and entry thereof is respectfully requested. As a result, claims 1-2, 4-21, 23-37 and 39-40 are pending and should be in condition for allowance. Reconsideration of the above-identified claims is now respectfully requested.

Claim Objections

In the Office Action, claims 3, 33 and 35 were objected to because of various informalities. By this paper, claim 3 was cancelled and claims 33 and 35 were amended as suggested by the Examiner in the Office Action. Accordingly, Applicant respectfully requests that the objection to claims 3, 33 and 35 be removed.

Rejection Under 35 U.S.C. § 112

In the Office Action, claims 11-36 and 40 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctively claim the subject matter in which Applicant regards as the invention. In the Office Action, the Examiner stated that claims 11-36 are driven towards a self-adjusting treadmill, but that in the claims no

mention of an entire treadmill that adjusts is present. By this paper, the limitation of “self-adjusting” has been removed.

Furthermore, claims 32 and 40 were rejected for an insufficient antecedent basis issue, and claim 22 was rejected for omitting essential structural cooperative relationships of the elements. By this paper, claim 22 has been cancelled and claims 32 and 40 have been amended to provide a sufficient antecedent basis for the particular limitations identified by the Examiner. Accordingly, reconsideration and removal of the rejection under 35 U.S.C. § 112 to claims 11-36 and 40 are requested.

Rejections Under 35 U.S.C. § 103

In the first Office Action, claims 1, 2, 11-14 and 19-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,708,337 to Shyu (“Shyu”) in view of U.S. Patent No. 4,976,424 to Sargeant et al. (“Sargeant”). Applicant submits that Shyu and Sargeant fail to obviate the limitations recited with respect to claims 1 and 11.

Shyu and Sargeant fail to teach or suggest all the limitations recited with respect to claims 1 and 11. Specifically, Shyu and Sargeant fail to teach or suggest a treadmill, as defined in claim 1, comprising a console moveably linked to the frame, wherein the height of the console can automatically adjust relative to the treadbase based on a user parameter, as recited in claim 1. Similarly, Shyu and Sargeant fail to teach or suggest a treadmill, as defined in claim 11, comprising a console moveable linked to an upright member of a frame, wherein the height of the console is automatically adjusted relative to the treadbase based on a height of a particular user feature, as defined in claim 11. Accordingly, Applicant requests reconsideration and removal of the rejection under 35 U.S.C. § 103 to claims 1 and 11.

In the Office Action, claims 37-40 were rejected under 35 U.S.C. § 103 as being unpatentable over Shyu in view of Sargeant and further in view of U.S. Patent No. 6,450,284 to Sakyo et al. (“Sakyo”).

Applicant submits that claim 37 is not obvious in light of Shyu in view of Sargeant and further in view of Sakyo. Specifically, Shyu, Sargeant and Sakyo fail to teach or suggest a treadmill, as defined in claim 37, including a console, wherein the height of the console automatically adjusts relative to the treadbase based on a height of a particular user feature, as recited in claim 37. Accordingly, Applicant requests reconsideration and removal of the rejection under 35 U.S.C § 103 to claim 37.

In the Office Action, independent claim 21 was not rejected, but the Examiner suggested that U.S. Patent No. 6,135,924 to Gibbs et al. (“Gibbs”) may be relevant to the patentability of claim 21. Applicant respectfully submits that the references of record fail to disclose, teach or suggest a treadmill, as defined in claim 21, comprising a console moveably coupled to one or more console support members, wherein the height of the console automatically adjusts from a first operational position to a second operational position based on the height of a user, as recited in claim 21. Accordingly, Applicant submits that claim 21 is in condition for allowance.

In conclusion, it is respectfully submitted that claims 1-2, 4-21, 23-37 and 39-40 are pending and should be in condition for allowance. Claims 2, 4-10, 12-20, 22-36 and 39-40 depend from an allowable base claim and thus incorporate all the limitations presented respectively therein. As such, reconsideration and allowance of the above-identified claims are now respectfully requested.

Conclusion

By this paper pending claims 1, 11, 21, 23-37 and 39-40 have been amended for the sake of clarity or to more clearly point out novel aspects of Applicant's invention. Claims 3, 22 and 38 have been canceled. As a result, claims 1-2, 4-21, 23-37 and 39-40 are pending and should be in condition for allowance. Reconsideration and allowance of the above-identified claims are now respectfully requested.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 8th day of December 2006.

Respectfully submitted,

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